

AMENDMENTS TO THE NATIONAL SECURITY ACT OF 1947

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Legislative background

The Central Intelligence Agency and the National Security Council were created by the National Security Act of 1947, the larger purpose of which was to consolidate the armed services into what became the Department of Defense. (see Appendix 1)

The Committee staff has examined the material available from the Library of Congress, the National Archives, and the files of the Rockefeller Commission concerning the legislative history of the Act for evidence of Congressional intent. This material is sparse and inconclusive. The National Security Council, the Department of Defense, and the CIA have all been requested to provide the Committee with whatever relevant records remain in their files, but no materials have been received to date. It is possible that these materials will be more informative, but it is more likely that the historical record will remain incomplete and of very limited value.

When the Act was being considered, the proposed unification of the armed forces was more controversial and of greater public and Congressional interest than the creation of either the NSC or the CIA. In fact, some of the Act's statutory provisions regarding both the CIA and the NSC were taken more or less directly from President Truman's directive of February 1, 1946, which created a National Intelligence Authority and a Central Intelligence Group. (see Appendix 2) This directive provided, for example, that the CIG shall "perform such other functions and duties related to intelligence affecting the national security" as the President and the NIA may from time to time direct. It also made the Director of Central Intelligence (as head of the CIG) responsible for "fully protecting intelligence sources and methods." These provisions may well have been incorporated into the statute without much attention to precisely how they should or might be interpreted.

Further, it is reasonable to suppose, given the climate of the time, that some matters may have been discussed only off the record, if they were discussed at all. For example, it has been argued that there is no statutory authority in the Act for the CIA to engage in espionage and covert action, and it is certainly true that the Act contains no such explicit authorization. But it has also been argued that it would be naive to expect candid references to such activities, either in statute or on the record, at a time when the nation was demobilizing from hot war and beginning to confront cold war. Instead, "other functions and duties" was intended to serve as an intentionally inconspicuous euphemism for the operational functions which had been performed by the OSS and which everyone understood were to be performed by its successor, the CIA.

There is scattered evidence in both contemporaneous and later documents to support both of these provisions as well as conflicting interpretations of other provisions of the Act. None of these sources, however, is truly satisfying as an authoritative statement of congressional intent. The documents which should be authoritative--the committee re-

ports and floor debates--are among the least informative. And it is unreasonable to generalize from the occasional statement of a witness or member of Congress to the certain intent of the Congress as a whole.

Instead of debating what the Congress really intended in 1947, the Committee may decide that it is preferable to put this question aside, and recommend amendments which would bring the Act into conformance with the intent of Congress in 1975. (for one such bill, see S. 244, attached as Appendix 3)

Section 402(a): Membership of the NSC

The function of the NSC is to "advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security...." (emphasis added) But as William Watts noted in his testimony before this Committee on October 30th,

(T)he National Security Council as presently constituted has no statutory representative, other than the president, who can speak to domestic considerations and concerns. In a world where foreign policy in many areas is also domestic policy (oil and grain are obvious examples), this is, in my view, a serious but correctable weakness. It places an unfair burden on the president, since only he can take fully into account the domestic consequences of foreign policy actions.

Mr. Watts suggests, therefore, that this section be amended to add the Secretary of the Treasury as a statutory member of the NSC.

In support of this proposal, it may be argued that the NSC, as presently constituted, cannot promote the integration of domestic and foreign policies because none of its members has an institutional interest in promoting domestic considerations. Although no official can adequately represent the entire gamut of domestic interests, the macro-economic responsibilities of the Secretary of the Treasury give him a broader perspective on domestic policy concerns than any of his Cabinet colleagues.

Further, adding the Secretary of the Treasury to the NSC would be a recognition of the increasing importance of international economic policy, and the shifting emphasis in security policy from military strength to questions of resource allocation and market control. The intelligence community has been criticized for not putting sufficient emphasis on economic issues. This weakness might be corrected by giving the Secretary of the Treasury a statutory voice in directing intelligence collection and evaluation efforts.

In opposition to this proposal, it may be argued that presidents have frequently asked domestic officials to participate in NSC meetings whenever appropriate. Every president has re-shaped the NSC to fit his own style of decision-making, and this flexibility should not be reduced by unnecessary changes in the formal membership of the NSC. The NSC is essentially an advisory body to the president; the more the Congress specifies its membership and activities, the greater the likelihood that presidents will find it uncongenial and ignore it.

Section 402(b): Functions of the NSC

In Sections 402(a) and 402(b), the Congress provided that the NSC is to advise, to assess and appraise, to consider policies, and to make recommendations to the President. There is no explicit statement that the NSC is to have any operational authority.

Section 402(b) does provide, however, that the NSC shall perform "such other functions as the President may direct...." and Section 403(d) provides that the CIA shall perform its services, functions and duties "under the direction of the National Security Council...."

If the Committee concludes that the NSC should only be an advisory body to the President, it may recommend that this section be amended by (1) eliminating the reference to "such other functions....", or (2) specifying that these other functions shall not include authorizing or directing operations or activities not undertaken primarily or solely for the purpose of gathering foreign intelligence.

If the Committee believes that the NSC should remain involved in covert action operations but that the final responsibility must rest on the President, it may recommend that this section be amended to provide that the NSC shall direct no operational activity without the explicit, personal and written approval of the President. Such a provision might duplicate the requirement for presidential approval imposed by the Foreign Assistance Act Amendments of 1974, but it would specify that the NSC is to have no operational authority independent of the President.

Sections 403(a) and 403(b): The Director and Deputy Director of Central Intelligence

Section 403(a) provides that either the Director or Deputy Director, but not both, may be nominated from among "commissioned officers of the armed forces, whether in an active or retired status." Section 403(b) contains various provisions concerning the status of a commissioned officer occupying either position.

Traditionally, either the DCI or his Deputy has been a commissioned officer. The Committee may conclude that this is undesirable because any military official, whatever his intentions, must inevitably be influenced by his years of experience in the armed forces. It may recommend, therefore, that the separation of the CIA from the military be enforced by repealing Section 403(b) and amending Section 403(a) to require that both the DCI and his Deputy be civilians.

Section 403(c): DCI authority to fire CIA employees

Section 403(c) provides that, notwithstanding any other provision of law,

The Director of Central Intelligence may, in his discretion, terminate the employment of any officer or employee of the Agency whenever he shall deem such termination necessary or advisable in the interests of the United States....

The Committee may conclude that this authority is unreasonably broad and that CIA employees should enjoy the rights of other government employees to the fullest extent possible.

Therefore, the Committee may recommend that this section be amended to provide that (1) the DCI's discretionary authority is limited to cases in which employees are fired for security reasons; (2) in such cases, the employee shall have the right to appeal to the President for reconsideration and reinstatement; and (3) before acting on such an appeal, the President shall have the advice and recommendation of the Attorney General.

Such amendments would provide some procedural safeguard against possible abuses of the DCI's discretionary authority without unreasonable risk to the secrecy of intelligence.

Section 403(d): The intelligence functions of the CIA

Section 403(d) provides that the CIA shall undertake various functions related to intelligence. Proposals have been made (see Appendix 3), to specify that the CIA shall only undertake programs related to foreign intelligence. Senator Proxmire proposes that this section be amended by inserting the word "foreign" before intelligence throughout the section.

The DCI, Mr. Colby, supported such an amendment in testimony before the House Armed Services Committee on 22 July 1974 (see page 1 of Appendix 4):

I fully support this change. While I believe the word "intelligence" alone in the original Act was generally understood to refer only to foreign intelligence, I concur that this limitation of the Agency's role to foreign intelligence should be made crystal clear to its own employees and to the public. I hope that this amendment will reassure any of our fellow citizens as to the Agency's true and only purpose.

Section 403(d): NSC direction of the CIA

Section 403(d) provides that the CIA shall perform specified functions "under the direction of the National Security Council."

On the basis of its hearings and investigation, the Committee may decide that the relationships among the President, the NSC, and the CIA should be clarified by amending this section to provide that the CIA's activities shall be undertaken at the direction of the President, upon the recommendation of or after consultation with the National Security Council.

Section 403(d)(3): Intelligence collection by the CIA

Section 403(d)(3) provides that the CIA shall "correlate and evaluate intelligence relating to the national security and provide for the appropriate dissemination of such intelligence within the Government...."

There is no provision in this section or elsewhere in law which authorizes the CIA to collect intelligence. The absence of such authorization supports the contention that the CIA was originally established as an agency to analyze and evaluate intelligence, without any operational responsibilities.

Whatever the original intention or expectation, however, the CIA has been involved in intelligence gathering since its creation. The Committee may wish to acknowledge this fact by amending this section to provide that the CIA shall "collect" as well as "correlate and evaluate" intelligence.

Section 403(d)(3): Domestic activities of the CIA

Section 403(d)(3) provides that the CIA "shall have no police, subpena, law-enforcement powers, or internal-security functions."

On the basis of the Rockefeller Commission report and its own investigation, the Committee may conclude that this section requires clarification. It may recommend, therefore, that the section be amended to provide that the CIA shall engage in no activities within the United States except:

1. to conduct personnel investigations and protect the security of its facilities;
2. to provide foreign intelligence information to other federal departments and agencies only upon the written, public request of the Attorney General or the Secretary of the Treasury, and
3. to solicit information voluntarily from United States citizens and residents.

Mr. Colby has indicated support for such an amendment. (see pages 6-8 of Appendix 4)

The Committee may also recommend that:

1. the above limitations are not meant to impede the lawful activities of the CIA at its headquarters and other offices within the United States,
2. any domestic activities undertaken pursuant to (1)-(3) above shall be subject to the laws of the United States, and
3. the CIA shall submit an annual report to the Congress describing and providing the statutory basis for all domestic activities undertaken pursuant to (1)-(3) above.

Section 403(d)(3): Protection of intelligence sources and methods

Section 403(d)(3) provides that the DCI "shall be responsible for protecting intelligence sources and methods from unauthorized disclosure."

The CIA has argued that this provision imposes an important responsibility upon the DCI without giving him the necessary authority. In his 1974 testimony before the House Armed Services Committee (see pages 1-3 of Appendix 4), Mr. Colby stated:

Under existing law, the Director is responsible for developing such internal administrative controls as are possible and appropriate to protect against unauthorized disclosures, but if such a disclosure is identified, his only recourse beyond internal disciplinary action, including termination of an employee, would be to report the matter to appropriate authorities for examination of possible legal action....

...I am of the personal opinion that additional legislation is required on this subject to improve our ability to protect intelligence sources and methods against unauthorized disclosure.... the specifics of my recommendations on this subject are still under active consideration within the Executive Branch, so that an appropriate Executive Branch recommendation can be made to the Congress.

It is likely that the CIA will recommend that the DCI be given some enforcement powers when it submits its recommendations for legislation to this committee. The Committee may conclude that some new authority must be provided to enable the DCI to meet his responsibility under this section.

Alternatively, the Committee may consider repealing this provision.

Any agency head whose agency has possession of classified information is required by Executive Order 11652 to protect against its unauthorized disclosure. The special requirement of this section, therefore, is unnecessary. It is also unclear what kinds of information are encompassed by "intelligence sources and methods" and whether the DCI's authority is limited to information in the custody of CIA or to information held throughout the intelligence community. Instead of attempting to clarify the provision, the Committee may recommend that it be eliminated as a possibly contentious issue which is unnecessary for the protection of intelligence information.

Section 403(d)(4): "Additional services of common concern"

Section 403(d)(4) provides that the CIA shall perform

for the benefit of the existing intelligence agencies, such additional services of common concern as the National Security Council determines can be more efficiently accomplished centrally.

So far as the staff has been able to determine, the CIA has not cited this provision as authority for any of its programs or activities. Further, the following section, 403(d)(5), provides that the CIA shall perform "such other functions and duties related to intelligence" as directed by the NSC. It appears, therefore, that the provisions of Section 403(d)(4) are unnecessary. The Committee may recommend that this section be repealed.

Section 403(d)(5): "Such other functions and duties"

Section 403(d)(5) provides that the CIA shall perform

such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct.

It is this provision which the CIA has cited as its statutory authority for conducting covert action operations.

If the Committee believes that the CIA should not engage in any covert action programs, it may recommend that this section be amended to provide that no activities undertaken pursuant to this section shall be for the purpose of influencing, determining, or otherwise affecting the policies, officials, programs, organizations, or actions of any foreign government or entity.

If the Committee concludes that covert actions should not be prohibited by law but that they should be considered and approved more systematically than at present, it may recommend that this section be amended to provide that any such functions and duties are to be undertaken only upon the specific, written direction of the President, upon the recommendation of or after consultation with the National Security Council.

The Committee may also recommend that any activities undertaken by the CIA under the authority of this section shall be reported to the Congress under the same reporting requirements established by the Foreign Assistance Act Amendments of 1974. Such a provision might be redundant, but it would minimize the possibility of major CIA activities escaping Congressional notice. Mr. Colby has expressed his general support for such a reporting requirement. (see pages 3-5 of Appendix 4)

Appendix 1

§ 402

TITLE 50.—WAR AND NATIONAL DEFENSE

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Activities, and (2) by adding thereto the following-named agencies:

Agency for International Development.
Office of Emergency Planning.
Peace Corps.
President's Foreign Intelligence Advisory Board.
United States Arms Control Disarmament Agency.

Sec. 2. Subsection (b) of section 2 is amended by deleting from the list of departments and agencies thereunder the Government Patents Board, and by adding thereto the following-named agency:

Federal Maritime Commission.

Sec. 3. The agencies which have been added by this order to the lists of departments and agencies under subsections (a) and (b) of section 2 of Executive Order No. 10501, as amended [set out as a note under this section], shall be deemed to have had authority for classification of information or material from the respective dates on which such agencies were established.

JOHN F. KENNEDY

Ex. Ord. No. 11097. AMENDMENT OF EXECUTIVE ORDER NO. 10501, RELATING TO SAFEGUARDING OFFICIAL INFORMATION

Ex. Ord. No. 11097, Feb. 28, 1963, 28 F.R. 2225, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States, and as President of the United States, and deeming such action necessary in the best interest of the national security, it is hereby ordered as follows:

SECTION 1. Section 2 of Executive Order No. 10501 of November 5, 1953, as amended by Executive Order No. 10301 of January 9, 1961 and by Executive Order No. 10985 of January 12, 1962 [set out as a note under this section], is hereby further amended (A) by adding at the end of Subsection (a) thereof "Export-Import Bank of Washington", "Office of Science and Technology", and "The Special Representative for Trade Negotiations"; and (B) by deleting from Subsection (b) thereof "Subversive Activities Control Board."

Sec. 2. The Export-Import Bank of Washington, the Office of Science and Technology, and The Special Representative for Trade Negotiations shall be deemed to have had authority for the original classification of information and material from the respective dates on which such agencies were established.

JOHN F. KENNEDY

OFFICE OF EMERGENCY PREPAREDNESS

The name of the Office of Emergency Planning was changed to the Office of Emergency Preparedness by Pub. L. 90-608, ch. IV, § 402, Oct. 21, 1968, 82 Stat. 1194, with references in any other law to the Office of Emergency Planning to be deemed, after Oct. 21, 1968, references to the Office of Emergency Preparedness.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 125, 133.

§ 402. National Security Council.

(a) Establishment; presiding officer; functions; composition.

There is established a council to be known as the National Security Council (hereinafter in this section referred to as the "Council").

The President of the United States shall preside over meetings of the Council: *Provided*, That in his absence he may designate a member of the Council to preside in his place.

The function of the Council shall be to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security so as to enable the military services and the other departments and agencies of the Government to cooperate more effectively in matters involving the national security.

The Council shall be composed of—

- (1) the President;
- (2) the Vice President;

- (3) the Secretary of State;
- (4) the Secretary of Defense;
- (5) the Director for Mutual Security;
- (6) The Chairman of the National Security Resources Board; and

(7) the Secretaries and Under Secretaries of other executive departments and of the military departments, the Chairman of the Munitions Board, and the Chairman of the Research and Development Board, when appointed by the President by and with the advice and consent of the Senate, to serve at his pleasure.

(b) Additional functions.

In addition to performing such other functions as the President may direct, for the purpose of more effectively coordinating the policies and functions of the departments and agencies of the Government relating to the national security, it shall, subject to the direction of the President, be the duty of the Council—

(1) to assess and appraise the objectives, commitments, and risks of the United States in relation to our actual and potential military power, in the interest of national security, for the purpose of making recommendations to the President in connection therewith; and

(2) to consider policies on matters of common interest to the departments and agencies of the Government concerned with the national security, and to make recommendations to the President in connection therewith.

(c) Executive secretary; appointment and compensation; staff employees.

The Council shall have a staff to be headed by a civilian executive secretary who shall be appointed by the President. The executive secretary, subject to the direction of the Council, is authorized, subject to the civil-service laws and chapter 51 and subchapter III of chapter 53 of Title 5, to appoint and fix the compensation of such personnel as may be necessary to perform such duties as may be prescribed by the Council in connection with the performance of its functions.

(d) Recommendations and reports.

The Council shall, from time to time, make such recommendations, and such other reports to the President as it deems appropriate or as the President may require. (July 26, 1947, ch. 343, title I, § 101, 61 Stat. 497; Aug. 10, 1949, ch. 412, § 3, 63 Stat. 579; Oct. 28, 1949, ch. 782, title XI, § 1106 (a), 63 Stat. 972; Oct. 10, 1951, ch. 479, title V, § 501 (e) (1), 65 Stat. 378.)

REFERENCES IN TEXT

The civil-service laws, referred to in subsec. (c), are classified generally to Title 5, Government Organization and Employees.

CODIFICATION

Provisions in subsec. (c) which limited the compensation of the executive secretary to \$10,000 a year were omitted since the position referred to is now in the classified civil service and subject to the applicable compensation schedules.

The authority for covering excepted positions into the classified civil service was given the President by section 2101 et seq. of Title 5, Government Organization and Employees. By Executive Order 8743, Apr. 25, 1941, the President exercised this authority with respect to many previously excepted positions.

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AMENDMENTS

1951—Subsec. (a). Act Oct. 10, 1951, inserted clause 5, relating to Director for Mutual Security, in fourth paragraph, and renumbered former clauses (5) and (6) thereof as clauses (6) and (7), respectively.

1949—Subsec. (a). Act Aug. 10, 1949, added the Vice President to the Council, removed the Secretaries of the military departments, to authorize the President to add, with the consent of the Senate, Secretaries and Under Secretaries of other executive departments and of the military department, and the Chairmen of the Munitions Board and the Research and Development Board.

Subsec. (c) amended by act Oct. 28, 1949, which substituted the "Classification Act of 1949" for the "Classification Act of 1923, as amended", which, for purposes of classification, has been translated as "chapter 51 and subchapter III of chapter 53 of Title 5."

TRANSFER OF FUNCTIONS

The functions of the Director of the Office of Defense Mobilization with respect to being a member of the National Security Council were transferred to the Director of the Office of Civil and Defense Mobilization by 1958 Reorg. Plan No. 1, § 4, eff. July 1, 1958, 23 F.R. 4991, 72 Stat. 1799, as amended by Pub. L. 85-763, Aug. 26, 1958, 72 Stat. 861, set out as a note under section 2271 of Appendix to this title.

The National Security Council, together with its functions, records, property, personnel, and unexpended balances of appropriations, allocations, and other funds (available or to be made available) were transferred to the Executive Office of the President by 1949 Reorg. Plan No. 4, eff. Aug. 19, 1949, 14 F.R. 5227, 63 Stat. 1057, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION AS UNAFFECTED BY REPEALS

Repeals by section 542 (a) of Mutual Security Act of 1954 did not repeal amendment to this section by act Oct. 10, 1951.

ABOLISHMENT OF MUNITIONS BOARD AND TRANSFER OF FUNCTIONS

The Munitions Board, together with the office of Chairman, was abolished and the Board's functions transferred to the Secretary of Defense by 1953 Reorg. Plan No. 6, eff. June 30, 1953, 18 F.R. 3743, set out in the Appendix to Title 5, Government Organization and Employees.

ABOLISHMENT OF OFFICE OF DIRECTOR FOR MUTUAL SECURITY AND TRANSFER OF FUNCTIONS

The office of Director for Mutual Security was abolished and the functions of the Director, including those as a member of the National Security Council transferred to the Director of the Foreign Operations Administration by 1953 Reorg. Plan No. 7, eff. Aug. 1, 1953, 18 F.R. 4541. The Foreign Operations Administration was subsequently superseded by the Agency for International Development.

ABOLISHMENT OF RESEARCH AND DEVELOPMENT BOARD AND TRANSFER OF FUNCTIONS

The Research and Development Board, together with the office of Chairman, was abolished and the Board's functions transferred to the Secretary of Defense by 1953 Reorg. Plan No. 6, eff. June 30, 1953, 18 F.R. 3743, set out in the Appendix to Title 5, Government Organization and Employees.

NATIONAL SECURITY AGENCY

Pub. L. 86-36, §§ 1-8, May 29, 1959, 73 Stat. 63, as amended by Pub. L. 87-367, title II, §§ 201, 204, Oct. 4, 1961, 70 Stat. 789, 791; Pub. L. 87-793, § 1001(c), Oct. 11, 1962, 76 Stat. 854; Sept. 23, 1950, ch. 1024, title III, § 306 (a), as added Mar. 26, 1964, Pub. L. 88-290, 78 Stat. 170; Aug. 14, 1964, Pub. L. 88-426, title III, § 306(h), 78 Stat. 430; Oct. 6, 1964, Pub. L. 88-631 § 3(d), 78 Stat. 1003; Sept. 6, 1966, Pub. L. 89-554, § 8(a), 80 Stat. 660; Oct. 8, 1966, Pub. L. 89-632, § 1(e), 80 Stat. 878; Pub. L. 91-187, § 2, Dec. 30, 1969, 83 Stat. 850, provided certain administrative authorities for the National Security Agency.

Sections 1 and 3 of Pub. L. 86-36 amended section 1082 of former Title 5, and section 1581(a) of Title 10, Armed Forces (as modified by section 12(a) of the Federal Employees Salary Increase Act of 1958, 72 Stat. 213), respectively.

Section 1 exempted the National Security Agency from the provisions of the Classification Act of 1949, now covered by chapter 51 and subchapter III of chapter 53 of Title 5. Section 3 deleted provision permitting the Secretary of Defense to establish not more than 50 research and development positions in the National Security Agency.

Sections 2, 4, 7, and 8 of Pub. L. 86-36 provided as follows:

"Sec. 2. The Secretary of Defense (or his designee for the purpose) is authorized to establish such positions, and to appoint thereto, without regard to the civil service laws, such officers and employees, in the National Security Agency, as may be necessary to carry out the functions of such agency. The rates of basic compensation for such positions shall be fixed by the Secretary of Defense (or his designee for the purpose) in relation to the rates of basic compensation contained in the General Schedule of the Classification Act of 1949, as amended [now set out in section 5332 of Title 5], for positions subject to such Act which have corresponding levels of duties and responsibilities. Except as provided in subsections (f) and (g) of section 303 of the Federal Executive Salary Act of 1964, no officer or employee of the National Security Agency shall be paid basic compensation at a rate in excess of the highest rate of basic compensation contained in such General Schedule. Not more than seventy such officers and employees shall be paid basic compensation at rates equal to rates of basic compensation contained in grades 16, 17, and 18 of such General Schedule. [As amended Pub. L. 87-367, title II, § 201, Oct. 4, 1961, 75 Stat. 789; Sept. 23, 1950, ch. 1024, title III, § 306(a), as added Mar. 26, 1964, Pub. L. 88-290, 78 Stat. 170; Aug. 14, 1964, Pub. L. 88-426, title III, § 306(h), 78 Stat. 430; Oct. 6, 1964, Pub. L. 88-631, § 3(d), 78 Stat. 1003; Oct. 8, 1966, Pub. L. 89-632, § 1 (e) (1), 80 Stat. 878.]

Sec. 4. The Secretary of Defense (or his designee for the purpose) is authorized to—

"(1) establish in the National Security Agency (A) professional engineering positions primarily concerned with research and development and (B) professional positions in the physical and natural sciences, medicine, and cryptology; and

"(2) fix the respective rates of pay of such positions at rates equal to rates of basic pay contained in grades 16, 17, and 18 of the General Schedule set forth in section 5332 of title 5, United States Code.

Officers and employees appointed to positions established under this section shall be in addition to the number of officers and employees appointed to positions under section 2 of this Act who may be paid at rates equal to rates of basic pay contained in grades 16, 17, and 18 of the General Schedule." [As amended Pub. L. 87-367, title II, § 204, Oct. 4, 1961, 75 Stat. 791; Pub. L. 87-793, § 1001(c), Oct. 11, 1962, 76 Stat. 854; Oct. 8, 1966, Pub. L. 89-632, § 1(e), 80 Stat. 878; Pub. L. 91-187, § 2, Dec. 30, 1969, 83 Stat. 850].

"Sec. 7. [Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 660.]

"Sec. 8. The foregoing provisions of this Act shall take effect on the first day of the first pay period which begins later than the thirtieth day following the date of enactment of this Act."

EXECUTIVE ORDER NO. 10700

Ex. Ord. No. 10700, Feb. 25, 1957, 22 F.R. 1111, as amended by Ex. Ord. No. 10773, July 3, 1958, 23 F.R. 5061; Ex. Ord. No. 10782, Sept. 8, 1958, 23 F.R. 6971; Ex. Ord. 10838, Sept. 17, 1959, 24 F.R. 7519, which provided for the Operations Coordinating Board, was revoked by Ex. Ord. No. 10920, Feb. 20, 1961, 26 F.R. 1463.

EX. ORD. NO. 10483

Ex. Ord. No. 10483, Sept. 3, 1953, 18 F.R. 5379, as amended by Ex. Ord. No. 10598, Feb. 28, 1955, 20 F.R. 1237, which provided for an Operations Coordinating Board, was superseded by Ex. Ord. No. 10700, Feb. 25, 1957.

§ 403. Central Intelligence Agency.

(a) Establishment; Director and Deputy Director; appointment.

There is established under the National Security Council a Central Intelligence Agency with a Director of Central Intelligence who shall be the

head thereof, and with a Deputy Director of Central Intelligence who shall act for, and exercise the powers of, the Director during his absence or disability. The Director and the Deputy Director shall be appointed by the President, by and with the advice and consent of the Senate, from among the commissioned officers of the armed services, whether in an active or retired status, or from among individuals in civilian life: *Provided, however,* That at no time shall the two positions of the Director and Deputy Director be occupied simultaneously by commissioned officers of the armed services, whether in an active or retired status.

(b) Commissioned officer as Director or Deputy Director; powers and limitations, effect on commissioned status.

(1) If a commissioned officer of the armed services is appointed as Director, or Deputy Director, then—

(A) in the performance of his duties as Director, or Deputy Director, he shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were a civilian in no way connected with the Department of the Army, the Department of the Navy, the Department of the Air Force, or the armed services or any component thereof; and

(B) he shall not possess or exercise any supervision, control, powers, or functions (other than such as he possesses, or is authorized or directed to exercise, as Director, or Deputy Director) with respect to the armed services or any component thereof, the Department of the Army, the Department of the Navy, or the Department of the Air Force, or any branch, bureau, unit, or division thereof, or with respect to any of the personnel (military or civilian) of any of the foregoing.

(2) Except as provided in paragraph (1) of this subsection, the appointment to the office of Director, or Deputy Director, of a commissioned officer of the armed services, and his acceptance of and service in such office, shall in no way affect any status, office, rank, or grade he may occupy or hold in the armed services, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade. Any such commissioned officer shall, while serving in the office of Director, or Deputy Director, continue to hold rank and grade not lower than that in which serving at the time of his appointment and to receive the military pay and allowances (active or retired, as the case may be, including personal money allowance) payable to a commissioned officer of his grade and length of service for which the appropriate department shall be reimbursed from any funds available to defray the expenses of the Central Intelligence Agency. He also shall be paid by the Central Intelligence Agency from such funds an annual compensation at a rate equal to the amount by which the compensation established for such position exceeds the amount of his annual military pay and allowances.

(3) The rank or grade of any such commissioned officer shall, during the period in which such commissioned officer occupies the office of Director of Central Intelligence, or Deputy Director of Central

Intelligence, be in addition to the numbers and percentages otherwise authorized and appropriated for the armed service of which he is a member.

(c) Termination of employment of officers and employees; effect on right of subsequent employment.

Notwithstanding the provisions of section 652 of Title 5, or the provisions of any other law, the Director of Central Intelligence may, in his discretion, terminate the employment of any officer or employee of the Agency whenever he shall deem such termination necessary or advisable in the interests of the United States, but such termination shall not affect the right of such officer or employee to seek or accept employment in any other department or agency of the Government if declared eligible for such employment by the United States Civil Service Commission.

(d) Powers and duties.

For the purpose of coordinating the intelligence activities of the several Government departments and agencies in the interest of national security, it shall be the duty of the Agency, under the direction of the National Security Council—

(1) to advise the National Security Council in matters concerning such intelligence activities of the Government departments and agencies as relate to national security;

(2) to make recommendations to the National Security Council for the coordination of such intelligence activities of the departments and agencies of the Government as relate to the national security;

(3) to correlate and evaluate intelligence relating to the national security, and provide for the appropriate dissemination of such intelligence within the Government using where appropriate existing agencies and facilities: *Provided,* That the Agency shall have no police, subpoena, law-enforcement powers, or internal-security functions: *Provided further,* That the departments and other agencies of the Government shall continue to collect, evaluate, correlate, and disseminate departmental intelligence: *And provided further,* That the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure;

(4) to perform, for the benefit of the existing intelligence agencies, such additional services of common concern as the National Security Council determines can be more efficiently accomplished centrally;

(5) to perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct.

(e) Inspection of intelligence of other departments.

To the extent recommended by the National Security Council and approved by the President, such intelligence of the departments and agencies of the Government, except as hereinafter provided, relating to the national security shall be open to the inspection of the Director of Central Intelligence, and such intelligence as relates to the national security and is possessed by such departments and other agencies of the Government, except as hereinafter

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TITLE 50.—WAR AND NATIONAL DEFENSE

§ 403

provided, shall be made available to the Director of Central Intelligence for correlation, evaluation, and dissemination: *Provided, however,* That upon the written request of the Director of Central Intelligence, the Director of the Federal Bureau of Investigation shall make available to the Director of Central Intelligence such information for correlation, evaluation, and dissemination as may be essential to the national security.

- (f) Termination of National Intelligence Authority; transfer of personnel, property, records, and unexpended funds.

Effective when the Director first appointed under subsection (a) of this section has taken office—

(1) the National Intelligence Authority (11 Fed. Reg. 1337, 1339, February 5, 1946) shall cease to exist; and

(2) the personnel, property, and records of the Central Intelligence Group are transferred to the Central Intelligence Agency, and such Group shall cease to exist. Any unexpended balances of appropriations, allocations, or other funds available or authorized to be made available for such Group shall be available and shall be authorized to be made available in like manner for expenditure by the Agency.

July 26, 1947, ch. 343, title I, § 102, 61 Stat. 498; Apr. 4, 1953, ch. 16, 67 Stat. 20.)

REFERENCES IN TEXT

Section 652 of title 5, referred to in subsec. (c), is now covered by sections 7101, 7102, and 7501 of Title 5, Government Organization and Employees.

AMENDMENTS

1953—Subsec. (a) and (b). Act Apr. 4, 1953, provided for the appointment of a Deputy Director of Central Intelligence and to define his duties and status.

REPEALS

Act Oct. 15, 1949, ch. 695, § 4, 63 Stat. 890, formerly set out in the credit to this section, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 655.

TRANSFER OF FUNCTIONS

The National Security Council was transferred to the Executive Office of the President by 1949 Reorg. Plan No. 4, eff. Aug. 19, 1949, 14 F. R. 5227, 63 Stat. 1067. See note set out under section 402 of this title.

COMPENSATION OF DIRECTOR AND DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE

Compensation of Director and Deputy Director, see sections 5313 and 5314 of Title 5, Government Organization and Employees.

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Pub. L. 88-643, Oct. 13, 1964, 78 Stat. 1043, as amended by Pub. L. 90-539, Sept. 30, 1968, 82 Stat. 902; Pub. L. 91-185, Dec. 30, 1969, 83 Stat. 847; Pub. L. 91-626, §§ 1-6, Dec. 31, 1970, 84 Stat. 1872-1874, provided:

"TITLE I—TITLE AND DEFINITIONS

"PART A—TITLE

"Sec. 101. This Act may be cited as the 'Central Intelligence Agency Retirement Act of 1964 for Certain Employees'.

"PART B—DEFINITIONS

"Sec. 111. When used in this Act, the term—

"(1) 'Agency' means the Central Intelligence Agency;

"(2) 'Director' means the Director of Central Intelligence; and

"(3) 'Qualifying service' means service performed as a participant in the system or, in the case of

service prior to designation, service determined by the Director to have been performed in carrying out duties described in section 203.

"TITLE II—THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

"PART A—ESTABLISHMENT OF SYSTEM

"RULES AND REGULATIONS

"Sec. 201. (a) The Director may prescribe rules and regulations for the establishment and maintenance of a Central Intelligence Agency Retirement and Disability System for a limited number of employees, referred to hereafter as the system; such rules and regulations to become effective after approval by the chairman and ranking minority members of the Armed Services Committees of the House and Senate.

"(b) The Director shall administer the system in accordance with such rules and regulations and with the principles established by this Act.

"(c) In the interests of the security of the foreign intelligence activities of the United States and in order further to implement the proviso of section 102(d)(3) of the National Security Act of 1947, as amended (50 U.S.C. 403(d)(3)), that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure, and notwithstanding the provisions of the Administrative Procedure Act (5 U.S.C. 1001 et seq.) or any other provisions of law, any determinations by the Director authorized by the provisions of this Act shall be deemed to be final and conclusive and not subject to review by any court.

"ESTABLISHMENT AND MAINTENANCE OF FUND

"Sec. 202. There is hereby created a fund to be known as the Central Intelligence Agency Retirement and Disability Fund which shall be maintained by the Director. The Central Intelligence Agency Retirement and Disability Fund is referred to hereafter as the fund.

"PARTICIPANTS

"Sec. 203. The Director may designate from time to time such Agency officers and employees whose duties are determined by the Director to be (i) in support of Agency activities abroad hazardous to life or health or (ii) so specialized because of security requirements as to be clearly distinguishable from normal government employment, hereafter referred to as participants, who shall be entitled to the benefits of the system. Any participant who has completed fifteen years of service with the Agency and whose career at that time is adjudged by the Director to be qualifying for the system may elect to remain a participant of such system for the duration of his employment by the Agency and such election shall not be subject to review or approval by the Director.

"ANNUITANTS

"Sec. 204. (a) Annuityants shall be participants who are receiving annuities from the fund and all persons, including surviving wives and husbands, widows, dependent widowers, children, and beneficiaries of participants or annuityants who shall become entitled to receive annuities in accordance with the provisions of this Act.

"(b) When used in this Act the term—

"(1) 'Widow' means the surviving wife of a participant who was married to such participant for at least two years immediately preceding his death or is the mother of issue by marriage to the participant.

"(2) 'Dependent widower' means the surviving husband of a participant who was married to such participant for at least two years immediately preceding her death or is the father of issue by marriage to the participant, and who is incapable of self-support by reason of mental or physical disability, and who received more than one-half of his support from such participant.

"(3) 'Child', for the purposes of sections 221 and 232 of this Act, means an unmarried child, including (i) an adopted child, and (ii) a stepchild or recognized natural child who lived with the participant in a regular parent-child relationship, under the age of eighteen years, or such unmarried child regardless

Appendix 2

CRS-11

PRESIDENTIAL DIRECTIVE

COORDINATION OF FEDERAL FOREIGN INTELLIGENCE ACTIVITIES

THE WHITE HOUSE.

Washington, January 22, 1946.

To The Secretary of State, The Secretary of War, and The Secretary of the Navy.

1. It is my desire, and I hereby direct, that all Federal foreign intelligence activities be planned, developed and coordinated so as to assure the most effective accomplishment of the intelligence mission related to the national security. I hereby designate you, together with another person to be named by me as my personal representative, as the National Intelligence Authority to accomplish this purpose.

2. Within the limits of available appropriations, you shall each from time to time assign persons and facilities from your respective Departments, which persons shall collectively form a Central Intelligence Group and shall, under the direction of a Director of Central Intelligence, assist the National Intelligence Authority. The Director of Central Intelligence shall be designated by me, shall be responsible to the National Intelligence Authority, and shall sit as a non-voting member thereof.

3. Subject to the existing law, and to the direction and control of the National Intelligence Authority, the Director of Central Intelligence shall:

- Accomplish the correlation and evaluation of intelligence relating to the national security, and the appropriate dissemination within the Government of the resulting strategic and national policy intelligence. In so doing, full use shall be made of the staff and facilities of the intelligence agencies of your Departments.

- Plan for the coordination of such of the activities of the intelligence agencies of your Departments as relate to the national security and recommend to the National Intelligence Authority the establishment of such over-all policies and objectives as will assure the most effective accomplishment of the national intelligence mission.

- Perform, for the benefit of said intelligence agencies, such services of common concern as the National Intelligence Authority determines can be more efficiently accomplished centrally.

- Perform such other functions and duties related to intelligence affecting the national security as the President and the National Intelligence Authority may from time to time direct.

4. No police, law enforcement or internal security functions shall be exercised under this directive.

5. Such intelligence received by the intelligence agencies of your Departments as may be designated by the Na-

CRS-12

tional Intelligence Authority shall be freely available to the Director of Central Intelligence for correlation, evaluation or dissemination. To the extent approved by the National Intelligence Authority, the operations of said intelligence agencies shall be open to inspection by the Director of Central Intelligence in connection with planning functions.

6. The existing intelligence agencies of your Departments shall continue to collect, evaluate, correlate and disseminate departmental intelligence.

7. The Director of Central Intelligence shall be advised by an Intelligence Advisory Board consisting of the heads (or their representatives) of the principal military and civilian intelligence agencies of the Government having functions related to national security, as determined by the National Intelligence Authority.

8. Within the scope of existing law and Presidential directives, other departments and agencies of the executive branch of the Federal Government shall furnish such intelligence information relating to the national security as is in their possession, and as the Director of Central Intelligence may from time to time request pursuant to regulations of the National Intelligence Authority.

9. Nothing herein shall be construed to authorize the making of investigations inside the continental limits of the United States and its possessions, except as provided by law and Presidential directives.

10. In the conduct of their activities the National Intelligence Authority and the Director of Central Intelligence shall be responsible for fully protecting intelligence sources and methods.

Sincerely yours,

HARRY S. TRUMAN

[P. R. Doc. 46-1951; Filed, Feb. 1, 1946;
5:01 p. m.]

The Central Intelligence Authority ceased to exist upon the creation of the Central Intelligence Agency under the National Security Council established by section 102 of the National Security Act of 1946 (61 Stat. 497; 50 U.S.C. 402, 403). The personnel, property, and records of the Central Intelligence Authority were transferred to the Central Intelligence Agency.

Appendix 3

94TH CONGRESS
1ST SESSION

S. 244

IN THE SENATE OF THE UNITED STATES

JANUARY 17, 1975

Mr. PROXMIRE (for himself, Mr. CRANSTON, Mr. KENNEDY, and Mr. PELL)
introduced the following bill; which was read twice and referred to the
Committee on Armed Services

A BILL

To amend section 102 of the National Security Act of 1947, as amended, to prohibit domestic intelligence activities by the Central Intelligence Agency, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That section 102 of the National Security Act of 1947,
4 as amended (50 U.S.C. 403), is amended as follows:

5 (1) Subsection (d) is amended by inserting "foreign"
6 immediately before "intelligence" the first time the latter
7 term appears in such subsection.

8 (2) Clauses (1) and (2) of subsection (d) are
9 amended by inserting "foreign" immediately before "intelli-
10 gence" each time the latter term appears in such clauses.

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1 (3) Clause (3) of subsection (d) is amended by insert-
2 ing "foreign" immediately before "intelligence" the first
3 time the latter term appears in such clause.

4 (4) Clause (4) of subsection (d) is amended by in-
5 serting "relating to foreign intelligence activities" immedi-
6 ately after "of common concern".

7 (5) Clause (5) of subsection (d) is amended to read
8 as follows:

9 "(5) to perform such other functions and duties re-
10 lated to foreign intelligence affecting the national se-
11 curity as may be specifically directed from time to time
12 by the Council and reported to the Congress in such
13 manner and in accordance with such procedures as the
14 Congress may establish to insure effective legislative
15 oversight with due recognition of essential security
16 requirements."

17 (6) Add at the end of such section a new subsection as
18 follows:

19 "(g) Nothing in this or any other Act shall be con-
20 strued as authorizing the Central Intelligence Agency to—

21 "(1) carry out, directly or indirectly, within the
22 United States, either on its own or in cooperation or
23 conjunction with any other department, agency, organi-
24 zation, or individual any police or police-type operation
25 or activity, any law enforcement operation or activity, or

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1 any internal security operation or activity: *Provided,*
2 *however,* That nothing in this Act shall be construed to
3 prohibit the Central Intelligence Agency from (A) pro-
4 tecting its installations, (B) conducting personnel in-
5 vestigations of Agency employees and applicants or
6 employees of contractors and others requiring access to
7 sensitive Agency information in carrying out Agency
8 responsibilities, or (C) providing information result-
9 ing from foreign intelligence activities to other appro-
10 priate departments and agencies; or

11 “(2) participate, directly or indirectly, in any il-
12 legal activity within the United States.”.

BY

WILLIAM E. COLBY, DIRECTOR OF CENTRAL INTELLIGENCE

22 July 1974

Mr. Chairman, I welcome the opportunity to testify today on H. R. 15845 introduced by you and Mr. Bray. The amendments proposed in this bill would be the first changes in the charter of the Central Intelligence Agency, found in the National Security Act of 1947. In conformity with our American constitutional structure, the existence of the Central Intelligence Agency stems from an Act of Congress. This is a unique contrast to the tradition and practice of most intelligence services, but it is a necessary reflection of our free society. The result, I believe, makes us a stronger nation, whose citizens live in a freedom envied by most of the world.

The amendments would add the word "foreign" before the word "intelligence" whenever it refers to the activities authorized to be undertaken by the Central Intelligence Agency. I fully support this change. While I believe the word "intelligence" alone in the original Act was generally understood to refer only to foreign intelligence, I concur that this limitation of the Agency's role to foreign intelligence should be made crystal clear to its own employees and to the public. I hope this amendment will reassure any of our fellow citizens as to the Agency's true and only purpose.

Section (3) of the bill reenforces the charge in the original Act that the Director of Central Intelligence shall be responsible for "protecting

intelligence sources and methods from unauthorized disclosure." The amendment states that pursuant to this responsibility, the Director shall develop appropriate plans, policies and regulations but such responsibility shall not be construed to authorize the Agency to engage in any police, subpoena, law enforcement or internal security activities, and that any information indicating a violation of the Director's plans, policies and regulations, should be reported to the Attorney General for appropriate action.

This amendment conforms to my own understanding of the meaning of the original statutory language. As I said in my confirmation hearing, I believe that the original Act gives the Director a charge but does not give him commensurate authority. Under existing law, the Director is responsible for developing such internal administrative controls as are possible and appropriate to protect against unauthorized disclosure, but if such a disclosure is identified, his only recourse beyond internal disciplinary action, including termination of an employee, would be to report the matter to appropriate authorities for examination of possible legal action. As you are aware, Mr. Chairman, the Government did take legal action with respect to one of our ex-employees who declined to abide by the agreement he made when he joined CIA to protect the confidential information to which he would be exposed.

Mr. Chairman, I fully agree with this clarification of the precise nature of the charge on the Director to protect intelligence sources and

methods against unauthorized disclosure. As you know, I am of the personal opinion that additional legislation is required on this subject to improve our ability to protect intelligence sources and methods against unauthorized disclosure. The contract theory on which the previously mentioned litigation is based is indeed a very slender reed upon which to rely in all cases. My views on this subject became known publicly as a result of that case and the specifics of my recommendations on this subject are still under active consideration within the Executive Branch, so that an appropriate Executive Branch recommendation can be made to the Congress.

The bill would also require that the Agency report to the Congress "in accordance with such procedures as the Congress may establish" on those "other functions and duties related to [foreign] intelligence affecting the national security as the National Security Council may from time to time direct." The National Security Act authorized the National Security Council to direct the Agency to conduct a number of foreign intelligence activities which by their nature must remain secret. The Act made clear, however, that these functions and duties could only stem from a specific direction by the National Security Council rather than being determined by the Agency itself. The amendments do not change this situation but add the requirement of reporting to Congress.

Mr. Chairman, at present the Agency reports to the Congress about its activities in a number of ways. On certain matters the Agency reports

publicly, such as in this hearing and in my own confirmation hearings. The Agency further identifies for public release a number of matters affecting it or resulting from its efforts. A recent example was the publication of testimony on the economies of the Soviet Union and China provided to the Joint Economic Committee and published on July 19th with only a few deletions which related to intelligence sources and methods.

The second area in which the Agency reports to Congress is in its assessments of foreign situations. The Agency briefs appropriate committees of the Congress in executive session, using the most sensitive material available, thus providing the Congress the fruits of the intelligence investment made by the United States. I believe this type of reporting is particularly important, as I hope to make our intelligence of maximum service to the nation as a whole, and this can only take place if it can assist those in the Congress who share in the American decision-making process under our Constitution. The Appropriations Committees, the Armed Services Committees, the Foreign Affairs and Foreign Relations Committees, the Joint Committee on Atomic Energy, and others have been the recipients of this kind of material. Again, to the extent possible, information provided and discussed in these executive sessions is later screened for publication. In many cases the sensitivity of the sources and methods involved does not permit such publication, but the classified transcript of the briefing can be made available to the members of Congress.

The third area in which the Agency reports to Congress concerns its operations. Pursuant to long-established procedures of the Congress, reports on these matters, including the most sensitive details, are provided only to the Intelligence Subcommittees of the Armed Services and Appropriations Committees of each House. Mr. Chairman, there are literally no secrets withheld from these Subcommittees. In fact, I believe I have more than a duty to respond to them; I must undertake the positive obligation to volunteer to these Subcommittees all matters of possible interest to the Congress. As you know, these reports cover our annual budget, the details of our activities, and problems which may have arisen in some regard or other.

The procedures established by the Congress for this reporting have worked well. Large numbers of highly sensitive matters have been revealed to these Subcommittees over the years, and their classification has been respected. I am also aware of the sense of responsibility of the members of the Congress as a whole with respect to matters which must remain highly classified because of their sensitivity. Thus, I am confident that congressional procedures in the future will be as effective as those of the past and I welcome the codification of this relationship in the proposed amendment which requires the Agency to report to the Congress.

Mr. Chairman, the bill also reenforces the proscription in the original Act against police, subpoena, law enforcement powers or internal security functions. I wish I could say that this clarification was not necessary but as you know, Mr. Chairman, I have frankly admitted that the Agency did make some mistakes in recent years in this area. Your own report of the investigations of this Subcommittee dealt with those incidents. The Congress has, in Public Law 93-83 of August 6, 1973, made clear that the CIA may not provide help to the Law Enforcement Assistance Administration in assisting local police and law enforcement agencies of the states and municipalities. The language of the bill would go further in this regard and prohibit the Agency from engaging directly or indirectly in the above type of activities within the United States either on its own or in cooperation or conjunction with any other department, agency, organization or individual. This would restrict our collaboration with the FBI to the field of foreign intelligence or counterintelligence. It may also limit the degree of assistance the Agency could provide to the Secret Service, under the Secret Service Act, which authorizes it to call upon the assistance of any other agency of the Government to assist it in its mission (Public Law 90-331). While this amendment might restrict certain of our activities of the past which were not in any way reprehensible, I believe that its enactment at this time would be an appropriate way of clarifying the purpose of the Agency as related only to foreign intelligence.

I do note that the bill contains a proviso in this area which I believe is both appropriate and essential to the proper functioning of the Agency. This makes it clear that nothing in the Act shall be construed to prohibit the Agency from conducting certain necessary and appropriate activities in the United States directly related to its foreign intelligence responsibilities. I welcome this proviso not only for its content but also for its clarification of the propriety of some of the long-standing activities of the Agency which are essential to its foreign intelligence mission. These include:

- a. Recruiting, screening, training and investigating employees, applicants and others granted access to sensitive Agency information;
- b. Contracting for supplies;
- c. Interviewing U.S. citizens who voluntarily share with their Government their knowledge of foreign subjects;
- d. Collecting foreign intelligence from foreigners in the United States;
- e. Establishing and maintaining support structures essential to CIA's foreign intelligence operations; and
- f. Processing, evaluating and disseminating foreign intelligence information to appropriate recipients within the United States.

These matters were publicly reported by me in my confirmation hearing last summer, and I believe that there is general understanding of their necessity and propriety. The proviso in the amendment, however, would make this explicit.

The bill also adds a new subsection to the Act to prohibit transactions between the Agency and former employees except for purely official matters. I fully subscribe to the purpose of this provision, to assure that former employees not take advantage of their prior associations to utilize the Agency's assistance or resources or to have an undue influence on the Agency's activities. This is particularly directed at the possible use of the Agency's assets for "nonofficial" assistance outside the Agency's charter. I would like to say that such a provision is not necessary, but again I must admit that errors have been made. While I do not believe there were any instances of major import, I accept the desirability of making the limitations on the Agency's unique authorities quite clear.

The normal legal proscriptions against improper influence on Federal employees apply, of course, to the Agency. In addition, a regulation has been developed within the Agency, which is brought to the attention of each employee each year, that any CIA employee who believes that he has received instructions which in any way appear inconsistent with the CIA legislative charter will inform the Director immediately. I might point out that

in those cases which presented questions concerning the Agency overstepping its bounds, the propriety and dedication to American traditions of our own employees caused them to object to possible Agency activities outside its charter. In my confirmation hearing I stated that I am quite prepared to leave my post if I should receive an order which appeared to be illegal and if my objections were not respected.

Thus, we in the Agency are fully in accord with the purpose of this amendment. At the same time, I confess concern over some possible interpretations of the language of this subsection. I assume that "purely official matters" would include our normal relationships with our retirees or others who left the Agency. I would assume it would also enable us to maintain normal official relationships with individuals who left the Agency to go on to other Governmental activities so long as the "official matters" fall within the scope of CIA's legitimate charter and there is no undue influence involved. I do wonder, however, whether certain activities might be included under this provision as official which neither the Congress nor the Agency would want to countenance, and on the other hand whether the phrase might interfere with a contact with an ex-employee volunteering important information to the Agency.

Since the Agency has certain unique authorities under the National Security Act and the CIA Act of 1949 and since much of its work does involve

highly classified activity, I would think it appropriate that the Congress add to the Agency's legislative charter some special recognition of the high degree of responsibility imposed on the Agency and its employees as a result of the grant of these unique authorities. This could require the Director to develop and promulgate a code of conduct for CIA employees at a higher standard than that expected of Federal employees generally. Thereby, the intelligence profession would become one of those with special standards such as the medical or legal professions. The Director's unique authority to terminate employees in his discretion when necessary or advisable in the interests of the United States, pursuant to the National Security Act of 1947, would provide a sanction for the application of such high standards. Regular congressional review would provide an assurance that such a code of conduct was adequate and that it was being promulgated, applied, and adhered to.

Mr. Chairman, it has been a pleasure to have had this opportunity to comment on H. R. 15845. With the few reservations I have noted above, I fully support the bill. Most of all, I fully support the purpose of the legislation in clarifying the mission of the Central Intelligence Agency only to conduct foreign intelligence activities. At the same time, I am pleased that the modifications proposed to the CIA charter would not adversely affect its authority or capability to carry out the challenging task of collecting, processing and disseminating foreign intelligence in the world today. I believe

these amendments would mark an important milestone in eliminating any apparent conflict between our ideal of an open American society and the minimum requirements of secrecy in the intelligence apparatus necessary to protect this free nation.